

RESOLUTION NO. 2006-04

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, AMENDING THE CITY CODE CHAPTER 9 (HEALTH AND
SANITATION) BY ADDING ARTICLE 9-6 (SMOKE FREE AIR ORDINANCE).**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA that the provisions set forth in that document attached hereto as Exhibit "A" and
entitled "Smoke Free Air Ordinance" constitute a public record with the Code amendment
proposed therein to be incorporated by reference into Ordinance No. 2006-03.

At least three (3) copies of this public record shall be kept in the office of the City Clerk
for public use and inspection.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona
this 10th day of January, 2006.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

Exhibit “A”

ARTICLE 9-6 SMOKE FREE AIR ORDINANCE

9-6-1	Purpose
9-6-2	Definitions
9-6-3	Regulation of Smoking in Public Places, Businesses, Places of Employment, and Restaurants

Section 9-6-1. Purpose

The smoking of tobacco and other plants or weeds is a health danger to those exposed to the smoke and is a source of annoyance and discomfort to those present in confined areas where such smoke is present. For these reasons, the purpose of this article is to regulate smoking in enclosed public places and in places of employment.

Section 9-6-2. Definitions

In this section, unless otherwise expressly provided for as required by the context:

- A. “Employee” means any person who performs any service on a full-time, part-time or contracted basis whether or not the person is denominated an employee, independent contractor or otherwise and whether or not the person is compensated or is a volunteer.
- B. “Employer” means a person, business, partnership, association, the state of arizona and its political subdivisions, corporations, including a municipal corporations, trust, or non-profit entity that employs the services of one or more individual persons.
- C. “Enclosed area” means all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling. Enclosed area includes a reasonable distance from any entrances, windows and ventilation systems so that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and so that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.
- D. “Health care facility” means any enclosed area utilized by any health care institution licensed according to Title 36 Chapter 4, Chapter 6 Article 7, or Chapter 17, or any Health Care Professional licensed according to Arizona Revised Statues Title 32 Chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41, or 42.
- E. “Person” means an individual, partnership, corporation, limited liability company, entity, association, governmental subdivision or unit of a governmental subdivision, or a public or private organization of any character.

- F. “Physically separate” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passageway) and independently ventilated from smoke-free areas, so that air within permitted smoking areas does not drift or get vented into smoke-free areas.
- G. “Places of employment” means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including office buildings, work areas, auditoriums, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, cafeterias, hallways, stairs, elevators, health care facilities, private offices and vehicles owned and operated by the employer during working hours when the vehicle is occupied by more than one person. A private residence is not a "place of employment" unless it is used as a child care, adult day care, or health care facility.
- H. “Veteran and fraternal clubs” means a club as defined in A.R.S. 4-101(7)(a)(b) or (c).
- I. “Public place” means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.
- J. “Retail tobacco store” means a retail store that derives the majority of its sales from tobacco products and accessories.
- K. “Smoking” means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product.
- L. “Sports facilities” means enclosed areas of sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, billiard halls, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sporting events.

Section 9-6-3. Regulation of Smoking in Public Places, Businesses, Places of Employment, and Restaurants

- A. Smoking is prohibited in all public places and places of employment within the City of Sedona, except the following:
 - 1. Private residences, except when used as a licensed child care, adult day care, or health care facility.

2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided; however, that not more than fifty percent of rooms rented to guests in a hotel or motel are so designated.
 3. Retail tobacco stores that are physically separated so that smoke from retail tobacco stores does not infiltrate into areas where smoking is prohibited under the provisions of this section.
 4. Veterans and fraternal clubs when they are not open to the general public.
 5. Smoking when associated with a religious ceremony practiced pursuant to the American Indian Religious Freedom Act of 1978.
 6. Outdoor patios so long as tobacco smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.
 7. A theatrical performance upon a stage or in the course of a film or television production if the smoking is part of the performance or production.
- B. The prohibition on smoking in places of employment shall be communicated to all existing employees by the effective date of this section and to all prospective employees upon their application for employment.
- C. Notwithstanding any other provision of this section, an owner, operator, manager, or other person or entity in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.
- D. Posting of signs and ashtray removal.
1. "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control of that place identifying where smoking is prohibited by this section and where complaints regarding violations may be registered.
 2. Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
 3. All ashtrays shall be removed from any area where smoking is prohibited by this section by the owner, operator, manager, or other person having control of the area.

- E. No employer may discharge or retaliate against an employee because that employee exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.
- F. An owner, manager, operator or employee of place regulated by this law shall inform any person who is smoking in violation of this law that smoking is illegal and request that the illegal smoking stop immediately.
- G. A person who smokes where smoking is prohibited is guilty of a petty offense with a fine of not less than fifty dollars and not more than three hundred dollars.